

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

LINDA SULLIVAN,)
)
)
Plaintiff,)
)
v.) **Case No. 11-CV-00362**
)
)
EXPERIAN INFORMATION)
SOLUTIONS, INC., et al.,)
)
)
Defendants.)

CAPITAL ONE BANK (USA), N.A.'S MOTION FOR SUMMARY JUDGMENT

Defendant Capital One Bank (USA), N.A. ("Capital One") respectfully moves this Court pursuant to Fed. R. Civ. P. 56, to grant final summary judgment in its favor on all Plaintiff Linda Sullivan's claims on the grounds that there are no genuine issues of material fact and Capital One is entitled to judgment as a matter of law, stating as follows:

1. Plaintiff Linda Sullivan brought this suit against Capital One and others alleging violations of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681 *et seq.* Specifically, Plaintiff claims that she disputed allegedly inaccurate information appearing on her credit report and that Capital Once failed to conduct a reasonable investigation of her dispute and to correct her credit report accordingly. (*See* Compl. ¶ 18, ECF No. 1.)

2. Plaintiff has not, and cannot, present sufficient evidence to create a triable issue as to the essential elements of this claim. First, Plaintiff cannot show that the duties established under 15 U.S.C. § 1681s-2(b) were triggered so as to give rise to an obligation to conduct a reasonable investigation and/or to correct the information reported to the consumer reporting agencies.

3. Second, Plaintiff cannot show that Capital One breached any duty set forth in § 1681s-2(b).

4. And third, Plaintiff cannot show that she is entitled to recover damages under the FCRA. For any one of these reasons, Plaintiff's claim for violations of the FCRA fails as a matter of law.

5. In further support of this Motion, Capital One relies on all pleadings of record; its Memorandum of Law in Support of Motion for Summary Judgment; the Deposition of Linda Sullivan (Exhibit A)¹; the Declaration of Jon Eric Bicking (Exhibit B); 2008 Police Report (Exhibit C); the Declaration of Sheila Loving (Exhibit D); 2010 Police Report (Exhibit E); the Declaration of Karen Barnett (Exhibit F); and all other evidence properly before the Court upon final briefing.

Respectfully Submitted,

/s Joshua H. Threadcraft

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¹ Deposition exhibits 25, 28, 31, 33 and 48 are included with this filing.

CERTIFICATE OF SERVICE

I do hereby certify that on April 16, 2013, I caused a true and correct copy of the foregoing to be electronically filed with the Clerk of Court using the cm/ecf system, which will provide electronic notice of the filing to the following:

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